

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

KORINA R. POWELL, )  
Plaintiff, ) No. CV-10-247-JPH  
v. ) ORDER GRANTING STIPULATED  
MICHAEL J. ASTRUE, ) MOTION FOR SENTENCE SIX  
Commissioner of Social ) REMAND  
Security, ) (ECF No. 21)  
Defendant. )

On July 27, 2011, the parties filed a stipulated motion for remand of this case pursuant to sentence six of 42 U.S.C. § 405(g) (**ECF No. 21**). Maureen J. Rosette represents plaintiff. Special Assistant United States Attorney Daphne Banay represents defendant. The parties have filed a consent to proceed before a magistrate judge (**ECF No. 7**).

After considering the stipulated motion (ECF No. 21), the court finds the additional evidence is material and good cause is shown because claimant timely forwarded the evidence but it was misfiled at the Appeals Council. 42 U.S.C. 405(g), sentence six provides: the court "may at any time order additional evidence to be taken before the Commissioner of Social Security, but only upon a showing that there is new evidence which is material and that there is good cause for the failure to incorporate such evidence into the record in a prior proceeding"; see also *Gibb v. Commissioner of Social Security*, Slip Copy, 2011 WL 893144 (March 11, 2011) at \*1.

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1 Accordingly,

2 **IT IS ORDERED** that the **motion is GRANTED. The case is**  
3 **REVERSED and REMANDED** pursuant to sentence six of 42 U.S.C. §  
4 405(g) for further administrative proceedings, including:

5 1. The Appeals Council will consider the timely filed<sup>1</sup>  
6 updated records from the CHAS Clinic and from William L. Bender,  
7 M.D., and make these part of the record. The additional evidence  
8 is material and the court finds there is good cause for failing to  
9 incorporate the evidence into the record prior to the Appeals  
10 Council's notice dated July 15, 2010.

11 2. The Appeals Council will then decide what action to take  
12 and notify the court and the parties.

13 **IT IS FURTHER ORDERED:**

14 1. The parties' stipulated motion for an order of remand  
15 pursuant to sentence six (ECF No. 21) is **GRANTED**.

16 2. The Court retains jurisdiction over the case.

17 3. The District Court Executive is directed to enter this  
18 Order, forward copies to counsel, and administratively **CLOSE** the  
19 file pending further action by the Appeals Council.

20 **IT IS SO ORDERED.**

21 **DATED** this 28th day of July, 2011.

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24 *s/James P. Hutton*  
JAMES P. HUTTON  
UNITED STATES MAGISTRATE JUDGE  
25 \_\_\_\_\_

26 <sup>1</sup>The records were transmitted September 29, 2009, but not  
27 associated with the file until after the Appeals Council's notice  
dated July 15, 2010.

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